



**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRANDON LEE CONRAD, an individual;
WERDNA S. CONRAD, an individual; and
WERDCO BC, INC., a Nevada corporation,

Plaintiff,

vs.

SINCLAIR LEASING CO., INC., a Texas
corporation; DAVID S. CHILES, JR.,
an individual, *et al.*,

Defendants.

Case No.: 2:07-CV-1424-BES-LRL

ORDER

Presently before the court is a Notice to Counsel Pursuant to Local Rule 41-1 (#45) submitted by the Court Clerk's office seeking dismissal of this matter for want of prosecution as to defendants Sinclair Leasing Co., Inc. and David S. Chiles, Jr. The Notice was entered on January 29, 2009 and advised Plaintiffs of a dismissal deadline of February 28, 2009. Plaintiffs have not filed a response.

BACKGROUND

This matter was originally removed to this court on October 25, 2007. (#1). Later, on December 31, 2007, defendant Central Texas Frame & Alignment, Inc. ("Central Texas") filed a Motion to Dismiss for Lack of Jurisdiction. On January 2, 2008, this court issued a minute order (#8) to comply with the requirements of Klinge v. Eikenberry, 849 F.2d 409 (9th Cir. 1988) and Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998). The minute order notified Plaintiffs that their opposition must be filed within fifteen (15) days. Plaintiffs did not respond to the motion and this court granted it on March 6, 2008. (#29). On February 13, 2008 Defendant

1 Union Bank & Trust Company ("Union Bank") filed a Motion to Dismiss for Lack of Jurisdiction
2 and Alternative Motion to Dismiss for Improper Venue. (#22). Again, this court issued a
3 minute order (#23) to comply with the requirements of Klinge v. Eikenberry, 849 F.2d 409
4 (9th Cir. 1988) and Rand v. Rowland, 154 F.3d 952 (9th Cir. 1998). Plaintiffs did not respond
5 to the motion and on April 16, 2008 the court granted this motion as well (#37). It appears
6 that Plaintiffs' last activity in this case was their participation in a Joint Statement Re: Removal
7 (#7) on November 28, 2007. Indeed, as noted earlier, Plaintiffs did not even respond to
8 Central Texas or Union Bank's motions to dismiss.

9 In accordance with Fed. R. Civ. P. 41(b) and LR 41-1, and having considered the the
10 posture of this case, the court finds that dismissal is appropriate.

11 DISCUSSION

12 A. Federal Rule of Civil Procedure 41 and Local Rule 41-1

13 Federal Rule of Civil Procedure 41 governs the involuntary dismissal of a plaintiff's
14 claim for failure to prosecute. It provides that if the plaintiff fails to prosecute or to comply with
15 these rules or a court order, a defendant may move to dismiss the action or any claim against
16 it. Involuntary dismissal is within the discretion of the court. Bishop v. Lewis, 155 F.3d 1094,
17 1096 (9th Cir. 1998). It is self evident that Plaintiffs have failed to prosecute this action in any
18 meaningful way. They even failed to oppose motions to dismiss. LR 41-1 provides that all civil
19 actions that have been pending in this court for more than nine (9) months without any
20 proceeding of record having been taken, may, after notice, be dismissed for want of
21 prosecution on motion of counsel or by the court. Here, despite notice otherwise, Plaintiffs
22 have not participated in any proceeding of record in almost seventeen months. Under these
23 circumstances, dismissal of this case pursuant to Fed. R. Civ. P. 41(b) is appropriate.

24 Moreover, the public's interest in the expeditious resolution of this case, the court's
25 need to manage its docket and prejudice to defendants Sinclair Leasing Co., Inc. and David
26 S. Chiles, Jr. require dismissal.

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CONCLUSION

In light of the foregoing, IT IS HEREBY ORDERED that Plaintiffs' claims against defendants Sinclair Leasing Co., Inc. and David S. Chiles, Jr. are DISMISSED without prejudice. The clerk of the court shall enter judgment accordingly.

IT IS SO ORDERED.

DATED: This 22nd day of April 2009.



United States District Judge